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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,021	12/15/2003	Nathaniel Lee		4163

7590 04/06/2006  
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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT PAPER NUMBER

3618

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/736,021	LEE, NATHANIEL	
	Examiner	Art Unit	
	Cynthia F. Collado	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3-7, 10-12, 15, 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 is/are allowed.
- 6) ☒ Claim(s) 1, 3-7, 10, 11 and 20 is/are rejected.
- 7) ☒ Claim(s) 2, 12-15, 17-19 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant submitted an amendment dated February 17, 2006, wherein claims 1-7, 10-13, 16-18 were amended, claims 8 and 9 were cancelled and new claim 21 was added.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1, 3-7, 10-11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stansbury'147 (5,071,147).

Regarding claims 1, 3 and 4, Stansbury does not teach a garbage can however Stansbury teaches a transporting golf device that is capable of being used as a garbage can (see fig 1). A user can easily place recyclable items or garbage within the container disclosed in Stansbury. Stansbury teaches a bottom section having a top defining a perimeter (3) with a bottom, a left side, a right side, a front, a back and the top defining an opening (16), and where the front and back have a length and the front length (58) is less than the back length (52), a top section having a top (18), a bottom defining a perimeter (3), a left side, a right side, a front (58), a connecting means for releasably connecting the bottom of the top section to the top of the bottom section (56), mounting means attached to the bottom section and for holding an axle and at least one wheel rotationally mounted to allow vertical or horizontal positioning of the back of the bottom section (fig 8, 42,44 and 14), a hypothetical line from the top of the back of the bottom section running to the top of the front of the bottom section (fig 3, element 16) , wherein the angle is less than 75 and 45 degrees (see figure 1). Based on the teaching of Stansbury, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Stansbury transporting golf cart additionally as a garbage can making it suitable to dispose of trash, such as a soda can, while golfing.

Regarding claim 5, Stansbury teaches a means for interlocking the top section bottom with the bottom section top perimeter along the perimeter (see fig 1), the bottom forms a top insertion end with a length at the top and the top section forms a bottom insertion with a length at the bottom and the connecting means comprises an insertion

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means for frictionally contacting the top insertion end to the bottom insertion end along the front (58), back (52), left side and right side of the top section and the corresponding front , back, left and right side of the bottom section (see figure 1).

Regarding claim 6, Stansbury teaches the top (18) and bottom section (3) a first length and a second length wherein the top comprises a high top along the first length above the hypothetical line and a low top extending along the hypothetical line the second length below the hypothetical line (see fig 1).

Regarding claim 7, Stansbury discloses the claimed invention except for the low top is at least 6 inches in length. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the low top at least 6 inches in length, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 10 and 11, Stansbury teaches wherein the angle is between 45 and 75 degrees.

Regarding claim 20, Stansbury teaches the top section is held in place by at least one removable holding means (see fig 2, element 20).

***Allowable Subject Matter***

6. Claims 2,12-15,17-19 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claim 16 is allowed.

***Conclusion***

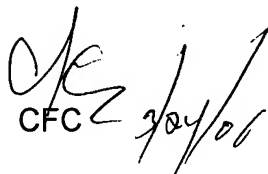
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
CFC 3/04/06



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